

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86141184
LAW OFFICE ASSIGNED	LAW OFFICE 116
MARK SECTION	
MARK	http://tmng-al.uspto.gov/resting2/api/img/86141184/large
LITERAL ELEMENT	4479
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
GOODS AND/OR SERVICES SECTION (009)(no change)	
GOODS AND/OR SERVICES SECTION (011)(no change)	
GOODS AND/OR SERVICES SECTION (014)(no change)	
GOODS AND/OR SERVICES SECTION (015)(no change)	
GOODS AND/OR SERVICES SECTION (016)(no change)	
GOODS AND/OR SERVICES SECTION (018)(no change)	
GOODS AND/OR SERVICES SECTION (020)(no change)	
GOODS AND/OR SERVICES SECTION (021)(no change)	
GOODS AND/OR SERVICES SECTION (022)(no change)	
GOODS AND/OR SERVICES SECTION (025)(no change)	
GOODS AND/OR SERVICES SECTION (035)(current)	
INTERNATIONAL CLASS	035
DESCRIPTION	
Public advocacy to promote awareness of the Toronto music industry; promotion and marketing services and related consulting for the Toronto music industry; providing marketing and promotion of special events; promoting the goods and services of others by providing a website featuring campaigns and petitions, reviews, links to the websites of others, and information for those wishing to support the Toronto music city initiative; providing a website featuring news, information and links to the websites of others about political issues relating to the Toronto music industry; providing an Internet website portal featuring links to music-related merchandise for retail purposes; providing an internet website featuring news and information in the field of music; association services, namely, the promotion of Toronto as a music tourism destination internationally and domestically; entertainment marketing services, namely, marketing, promotion and advertising for recording and performing artists; operating recording studios, live music venues, festivals, concert promoters and managers in the promotion and development of music, through the promotion of social media channels and interactive media, blogs, contests, links to concert listings, merchandise sales and publication of e-newsletters	
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
FOREIGN REGISTRATION NUMBER	TMA923,330

FOREIGN REGISTRATION COUNTRY	Canada
FOREIGN REGISTRATION DATE	12/14/2015
FOREIGN EXPIRATION DATE	12/14/2030
GOODS AND/OR SERVICES SECTION (035)(proposed)	
INTERNATIONAL CLASS	035
TRACKED TEXT DESCRIPTION	
Public advocacy to promote awareness of the Toronto music industry; promotion and marketing services and related consulting for the Toronto music industry; providing marketing and promotion of special events; promoting the goods and services of others by providing a website featuring campaigns and petitions, reviews, links to the websites of others, and information for those wishing to support the Toronto music city initiative; providing a website featuring news, information and links to the websites of others about political issues relating to the Toronto music industry; providing an Internet website portal featuring links to music-related merchandise for retail purposes; providing an internet website featuring news and information in the field of music ; association services, namely, the promotion of Toronto as a music tourism destination internationally and domestically; entertainment marketing services, namely, marketing, promotion and advertising for recording and performing artists; talent agency and management services for live music venues and festivals ; operating recording studios, live music venues, festivals, concert promoters and managers in the promotion and development of music, through the promotion of social media channels and interactive media, blogs, contests, links to concert listings, merchandise sales and publication of e-newsletters ; <u>concert promotion and management for the promotion and development of music, through social media channels and interactive media, blogs, contests, links to concert listings, merchandise sales and publication of e-newsletters in the field of music</u>	
FINAL DESCRIPTION	
Public advocacy to promote awareness of the Toronto music industry; promotion and marketing services and related consulting for the Toronto music industry; providing marketing and promotion of special events; promoting the goods and services of others by providing a website featuring campaigns and petitions, reviews, links to the websites of others, and information for those wishing to support the Toronto music city initiative; providing a website featuring news, information and links to the websites of others about political issues relating to the Toronto music industry; providing an Internet website portal featuring links to music-related merchandise for retail purposes; association services, namely, the promotion of Toronto as a music tourism destination internationally and domestically; entertainment marketing services, namely, marketing, promotion and advertising for recording and performing artists; talent agency and management services for live music venues and festivals; concert promotion and management for the promotion and development of music, through social media channels and interactive media, blogs, contests, links to concert listings, merchandise sales and publication of e-newsletters in the field of music	
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
FOREIGN REGISTRATION NUMBER	TMA923,330
FOREIGN REGISTRATION COUNTRY	Canada
FOREIGN REGISTRATION DATE	12/14/2015
FOREIGN EXPIRATION DATE	12/14/2030
GOODS AND/OR SERVICES SECTION (036)(class deleted)	
GOODS AND/OR SERVICES SECTION (038)(class deleted)	
GOODS AND/OR SERVICES SECTION (041)(class added)	
INTERNATIONAL CLASS	041
DESCRIPTION	
Providing an internet website featuring news and information in the field of music; recording studios	
FILING BASIS	Section 1(b)
FILING BASIS	Section 44(e)
FOREIGN REGISTRATION NUMBER	TMA923,330

FOREIGN REGISTRATION COUNTRY	Canada
FOREIGN REGISTRATION DATE	12/14/2015
FOREIGN REGISTRATION FILE NAME(S)	
ORIGINAL PDF FILE	FRN0-98248153137-201834766_.CA_Cert_of_Reg_4479.pdf
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT17\IMAGEOUT17\861\411\86141184\xml1\RFR0002.JPG
	\\TICRS\EXPORT17\IMAGEOUT17\861\411\86141184\xml1\RFR0003.JPG
	\\TICRS\EXPORT17\IMAGEOUT17\861\411\86141184\xml1\RFR0004.JPG
ADDITIONAL STATEMENTS SECTION	
MISCELLANEOUS STATEMENT	<p>With respect, this should not be a final office action. The March 27, 2014 Office Action only stated, "Applicant must amend this wording to specify the common commercial or generic name for the services. If there is no common commercial or generic name for the services, then applicant must describe the nature of the services as well as their main purpose, channels of trade, and the intended consumer(s)." Respectfully, Applicant points out that the Examiner gave no guidance as to the services description in this Office Action. In addition, Applicant had already "specif[ied] the common commercial or generic name for the services [and] describe[d] the nature of the services as well as their main purpose, channels of trade, and the intended consumer(s)." The Examiner did not clarify his requirements in any of the subsequent mailings. Applicant added classes 35, 36 and 38 in its response dated September 25, 2014. The October 15, 2014 suspension stated the services identification was not acceptable but did not specify why. Therefore Applicant's initial response, representing Applicant's best efforts in satisfying this vague standard, should not be refused on a "final" Office Action basis. Instead, Applicant should be given an opportunity to comply, without having to file an appeal or a petition to the Commissioner. This is especially so given that accepting the Examiner's language in some cases is an inaccurate description of Applicant's services. Nevertheless, to preserve its options, Applicant has filed an appeal.</p>
PAYMENT SECTION	
TOTAL FEES DUE	The filing Attorney has elected not to submit a fee payment for the class(es), believing no fee payment is required under the <i>Trademark Rules of Practice</i> .
SIGNATURE SECTION	
DECLARATION SIGNATURE	The filing Attorney has elected not to submit the signed declaration, believing no supporting declaration is required under the <i>Trademark Rules of Practice</i> .
RESPONSE SIGNATURE	/elp/
SIGNATORY'S NAME	E Lynn Perry
SIGNATORY'S POSITION	Attorney of Record, California State Bar Member
SIGNATORY'S PHONE NUMBER	4155248683
DATE SIGNED	10/05/2016
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Oct 05 20:56:33 EDT 2016
TEAS STAMP	USPTO/RFR-XX.XXX.XXX.XXX- 20161005205633763168-8614 1184-57061c0f1fc713a42ce2

e11ab8a8d71a3391e980661e3
3b7ade8307dcefc983d6a-N/A
-N/A-20161005201834766720

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1960 (Rev 10/2011)

OMB No. 0651-0050 (Exp 07/31/2017)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **86141184** 4479(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86141184/large>) has been amended as follows:

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant hereby deletes the following class of goods/services from the application.

Class 036 for Charitable services, namely, raising money for the Toronto music industry

Applicant hereby deletes the following class of goods/services from the application.

Class 038 for Philanthropic services in the area of donations and promotion of charity events; educational projects on behalf of the music industry

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 035 for Public advocacy to promote awareness of the Toronto music industry; promotion and marketing services and related consulting for the Toronto music industry; providing marketing and promotion of special events; promoting the goods and services of others by providing a website featuring campaigns and petitions, reviews, links to the websites of others, and information for those wishing to support the Toronto music city initiative; providing a website featuring news, information and links to the websites of others about political issues relating to the Toronto music industry; providing an Internet website portal featuring links to music-related merchandise for retail purposes; providing an internet website featuring news and information in the field of music; association services, namely, the promotion of Toronto as a music tourism destination internationally and domestically; entertainment marketing services, namely, marketing, promotion and advertising for recording and performing artists; operating recording studios, live music venues, festivals, concert promoters and managers in the promotion and development of music, through the promotion of social media channels and interactive media, blogs, contests, links to concert listings, merchandise sales and publication of e-newsletters

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: *For a trademark or service mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. ***For a collective trademark, collective service mark, or collective membership mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. ***For a certification mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

Filing Basis: Section 44(e), Based on Foreign Registration: *For all applications:* The applicant attaches a copy of [Canada registration number TMA923,330 registered 12/14/2015 with a renewal date of _____ and an expiration date of 12/14/2030], and translation thereof, if appropriate. ***For a trademark or service mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services. ***For a collective trademark, collective service mark, or collective membership mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. ***For a certification mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users on or in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods or services that meet the certification standards of the applicant.

Proposed:

Tracked Text Description: Public advocacy to promote awareness of the Toronto music industry; promotion and marketing services and related

consulting for the Toronto music industry; providing marketing and promotion of special events; promoting the goods and services of others by providing a website featuring campaigns and petitions, reviews, links to the websites of others, and information for those wishing to support the Toronto music city initiative; providing a website featuring news, information and links to the websites of others about political issues relating to the Toronto music industry; providing an Internet website portal featuring links to music-related merchandise for retail purposes; ~~providing an internet website featuring news and information in the field of music~~; association services, namely, the promotion of Toronto as a music tourism destination internationally and domestically; entertainment marketing services, namely, marketing, promotion and advertising for recording and performing artists; ~~talent agency and management services for live music venues and festivals~~; ~~operating recording studios, live music venues, festivals, concert promoters and managers in the promotion and development of music, through the promotion of social media channels and interactive media, blogs, contests, links to concert listings, merchandise sales and publication of e-newsletters~~; concert promotion and management for the promotion and development of music, through social media channels and interactive media, blogs, contests, links to concert listings, merchandise sales and publication of e-newsletters in the field of music

Class 035 for Public advocacy to promote awareness of the Toronto music industry; promotion and marketing services and related consulting for the Toronto music industry; providing marketing and promotion of special events; promoting the goods and services of others by providing a website featuring campaigns and petitions, reviews, links to the websites of others, and information for those wishing to support the Toronto music city initiative; providing a website featuring news, information and links to the websites of others about political issues relating to the Toronto music industry; providing an Internet website portal featuring links to music-related merchandise for retail purposes; association services, namely, the promotion of Toronto as a music tourism destination internationally and domestically; entertainment marketing services, namely, marketing, promotion and advertising for recording and performing artists; talent agency and management services for live music venues and festivals; concert promotion and management for the promotion and development of music, through social media channels and interactive media, blogs, contests, links to concert listings, merchandise sales and publication of e-newsletters in the field of music

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

Filing Basis: Section 44(e), Based on Foreign Registration:**For all applications:** The applicant attaches a copy of [Canada registration number TMA923,330 registered 12/14/2015 with a renewal date of _____ and an expiration date of 12/14/2030], and translation thereof, if appropriate, before the application may proceed to registration. **For a trademark or service mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users on or in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods or services that meet the certification standards of the applicant.

Applicant hereby adds the following class of goods/services to the application:

New: Class 041 for Providing an internet website featuring news and information in the field of music; recording studios

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

Filing Basis: Section 44(e),Based on Foreign Registration: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods and /or services, and submits a copy of [Canada registration number TMA923,330 registered 12/14/2015 with a renewal date of _____ and an expiration date of _____], and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

Original PDF file:

[FRN0-98248153137-201834766 . CA_Cert_of_Reg_4479.pdf](#)

Converted PDF file(s) (3 pages)

[Foreign Registration-1](#)

[Foreign Registration-2](#)

[Foreign Registration-3](#)

ADDITIONAL STATEMENTS

Miscellaneous Statement

With respect, this should not be a final office action. The March 27, 2014 Office Action only stated, "Applicant must amend this wording to specify the common commercial or generic name for the services. If there is no common commercial or generic name for the services, then applicant must describe the nature of the services as well as their main purpose, channels of trade, and the intended consumer(s)." Respectfully, Applicant points out that the Examiner gave no guidance as to the services description in this Office Action. In addition, Applicant had already "specif[ied] the common commercial or generic name for the services [and] describe[d] the nature of the services as well as their main purpose, channels of trade, and the intended consumer(s)." The Examiner did not clarify his requirements in any of the subsequent mailings. Applicant added classes 35, 36 and 38 in its response dated September 25, 2014. The October 15, 2014 suspension stated the services identification was not acceptable but did not specify why. Therefore Applicant's initial response, representing Applicant's best efforts in satisfying this vague standard, should not be refused on a "final" Office Action basis. Instead, Applicant should be given an opportunity to comply, without having to file an appeal or a petition to the Commissioner. This is especially so given that accepting the Examiner's language in some cases is an inaccurate description of Applicant's services. Nevertheless, to preserve its options, Applicant has filed an appeal.

I hereby elect to by-pass any fee edit for an added class(es), because I believe the original fee payment was sufficient. I understand that the examining attorney could still, upon later review, require a fee payment.

SIGNATURE(S)

Declaration Signature

The filing Attorney has elected not to submit the signed declaration, believing no supporting declaration is required under the *Trademark Rules of Practice*.

Request for Reconsideration Signature

Signature: /elp/ Date: 10/05/2016

Signatory's Name: E Lynn Perry

Signatory's Position: Attorney of Record, California State Bar Member

Signatory's Phone Number: 4155248683

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86141184

Internet Transmission Date: Wed Oct 05 20:56:33 EDT 2016

TEAS Stamp: USPTO/RFR-XX.XXX.XXX.XXX-201610052056337

63168-86141184-57061c0f1fc713a42ce2e11ab

8a8d71a3391e980661e33b7ade8307dcefc983d6

a-N/A-N/A-20161005201834766720



Office de la propriété
intellectuelle
du Canada

Un organisme
d'Industrie Canada

Canadian
Intellectual Property
Office

An Agency of
Industry Canada

Marques de commerce

Certificat d'enregistrement

La présente atteste que la marque de commerce identifiée dans l'extrait ci-joint, tiré du registre des marques de commerce, a été enregistrée et que ledit extrait est une copie conforme de l'inscription de son enregistrement. Conformément aux dispositions de la *Loi sur les marques de commerce*, cette marque de commerce est renouvelable tous les quinze ans à compter de la date d'enregistrement.



Trade-marks

Certificate of Registration

This is to certify that the trade-mark, identified in the attached extract from the register of trade-marks, has been registered and that the said extract is a true copy of the record of its registration.

In accordance with the provisions of the *Trade-marks Act*, this trade-mark is subject to renewal every 15 years from the registration date.

4479

Numéro d'enregistrement
Registration Number

TMA923,330

Numéro de dossier
File Number

1630951

Registraire des marques de commerce
Registrar of Trade-marks

Date d'enregistrement
Registration Date

14 déc/Dec 2015

Canada 

(CIPQ 196)11-10



APPL'N/DEM. NO 1 630 951

REGISTRATION/ENREGISTREMENT NO TMA923,330

FILING DATE/DATE DE PRODUCTION:

13 juin/Jun 2013

REGISTRATION DATE/DATE D'ENREGISTREMENT:

14 déc/Dec 2015

REGISTRANT/PROPRIÉTAIRE ORIGINAL:

Music Canada
85 Mowat Avenue
Suite 1200
Toronto
ONTARIO
M6K 3E3

REP FOR SERVICE/REP POUR SIGNIFICATION:

BERESKIN & PARR LLP/S.E.N.C.R.L., S.R.L.
SCOTIA PLAZA
40 KING STREET WEST
40th FLOOR
TORONTO
ONTARIO M5H 3Y2

TRADE-MARK/MARQUE DE COMMERCE:

4479

GOODS/PRODUITS:

Key fobs, pins, flashlights; banners, posters; clothes, namely, shirts, t-shirts; headgear, namely, caps, hats; banners (including the ones that would go on a light standard on the street).

SERVICES:

Advocacy services in respect of representation of and legally advocating for the Toronto music industry on all matters including legislative and regulatory matters, by means of campaigns and petitions regarding the value of music in Toronto and by the publication and distribution of information by means of links to city councillors in Toronto, news and information regarding music in Toronto and city administration and political updates pertaining to music and sponsorship information for those wishing to support the Toronto music city initiative; association services, namely, the promotion of Toronto as a music tourism destination internationally and domestically, promotion of and participation in charity events and educational projects on behalf of the music industry, advertising and promotion on behalf of musicians, recording studios, live music venues, festivals, concert promoters and managers in the promotion and development of music, through the promotion of social media channels and interactive media, blogs, contests, links to concert listings, merchandise sales and publication of e-newsletters.

APPL'N/DEM. NO 1 630 951

REGISTRATION/ENREGISTREMENT NO TMA923,330

CLAIMS/REVENICATIONS:

Declaration of Use filed December 03, 2015 on goods and on services.